

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

RICHARD GLOSSIP,	)	
	)	
Petitioner,	)	
vs.	)	NO. CIV-08-0326-HE
	)	
MARTY SIRMONS, Warden, Oklahoma	)	
State Penitentiary,	)	
	)	
Respondent.	)	

**ORDER**

Before the court is petitioner's motion to permit discovery, requesting an order requiring production of certain posters utilized by the state - and not part of the state court record - that petitioner asserts were created contemporaneously with witnesses' testimony and improperly displayed throughout his trial.

Discovery in capital habeas cases is governed by the Rules Governing Section 2254 Cases and the Federal Rules of Civil Procedure:

(a) Leave of Court Required. A judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure and may limit the extent of discovery. If necessary for effective discovery, the judge must appoint an attorney for a petitioner who qualifies to have counsel appointed under 18 U.S.C. § 3006A.

(b) Requesting Discovery. A party requesting discovery must provide reasons for the request. The request must also include any proposed interrogatories and requests for admission, and must specify any requested documents.

Rules Governing Section 2254 Cases, Rule 6 (a) and (b).


In this case, petitioner has not yet filed his petition with the court, nor has the state court record been provided. For this court to exercise its discretion to grant petitioner's

request for discovery, petitioner must first demonstrate “good cause”. Absent the factual allegations in his petition regarding his proposed constitutional claim for relief, the court is unable to determine the propriety of his discovery request. Additionally, it cannot be determined at this time whether petitioner’s anticipated claim for relief has been fully exhausted. For these reasons, the court concludes that pre-petition discovery is not appropriate. *See* Calderon v. United States District Court for the Northern District of California, 98 F.3d 1102, 1106 (9<sup>th</sup> Cir. 1996).

Accordingly, petitioner’s motion to permit discovery [Doc. #18] is **DENIED** without **PREJUDICE**.

**IT IS SO ORDERED.**

Dated this 24th day of September, 2008.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE